

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P. No. 1070 of 2007

Date of Decision: 11.12.2007

Nirmaljit Singh and others

...Petitioners

Versus

Punjab State Electricity Board

...Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. D.S. Patwalia, Advocate,
for the petitioners.

Mr. Vikas Chatrath, Advocate,
for the respondent.

JUDGMENT

M.M. KUMAR, J.

The grievance of the petitioners in the instant petition is that once an issue has been settled by the Courts and relief has been granted to persons who have approached the Court then the same benefit ought to have been granted to all similarly situated persons. The similarly situated persons are not to be forced to approach the Court time and again for grant of the same relief. The petitioners have prayed for commanding the respondent Punjab State Electricity Board (for brevity, 'the Board') to grant them the pay scale of Rs.

6300-10700 with effect from 1.1.1996 in terms of the Division Bench judgments of this Court in the cases of **G.K. Nagpal and others v. Punjab State Electricity Board, Patiala** (L.P.A. No. 488 of 1989, decided on 7.1.1998, Annexure P-1) and **Pawan Kumar Mittal and others v. Punjab State Electricity Board**, (C.W.P. No. 14112 of 2002, decided on 22.12.2005, Annexure P-5).

Few facts may first be noticed. Prior to 1.1.1978, the posts of Laboratory Assistants, Line Superintendents, Auxiliary Plant Attendants, Sub-Station Operators were in the pay scale of Rs. 200-450 and with effect from 1.1.1978 all these categories of posts were given the pay scale of Rs. 570-1080. However, in the year 1981, Line Superintendents, Auxiliary Plant Attendants and Sub-Station Operators were given the scale of Rs. 700-1200 with effect from 1.1.1978, leaving the category of Laboratory Assistants.

Some of the colleagues of the petitioners filed C.W.P. No. 387 of 1987 (G.K. Nagpal and others v. Punjab State Electricity Board, Patiala) in this Court for removing the anomaly in their pay scales with that of Line Superintendents/Auxiliary Plant Attendants and Sub Station Operators and grant of pay scale of Rs. 700-1200 with effect from 1.1.1978. The writ petition was dismissed by a learned Single Judge with the finding that the qualifications were different. Thereafter, L.P.A. No. 488 of 1989 (supra) filed against the view of the learned Single Judge was allowed by the Letters Patent Bench of this Court, vide order dated 7.1.1998 (P-1). A special leave petition against the order dated 7.1.1998, was dismissed by Hon'ble

the Supreme Court, vide order dated 23.3.1999 (P-2) although it may not amount to declaration of law.

In the meanwhile, pay scales of other categories were revised and they were granted the pay scale of Rs. 1800-3200 w.e.f. 1.1.1986 and Rs. 6300-10700 w.e.f. 1.1.1996, whereas the Laboratory Assistants were placed in the lower pay scale of Rs. 1500-2640 and 5125-8750 w.e.f. 1.1.1986 and 1.1.1996 respectively. Since the Board was not implementing the order dated 7.1.1998 in letter and spirit and took the view that only parity from 1.1.1978 was to be granted and anomaly on account of later revision of scales w.e.f. 1.1.1986 and 1.1.1996 was not to be removed, a contempt petition being C.O.C.P. No. 1395 of 1999 (S.P. Bhatt and others v. Kiran Deep Singh Bhullar) was also filed in this Court, which was disposed of vide order dated 10.11.2000 (P-3). The Special Leave Petition preferred by the Board against the order dated 10.11.2000, has also been dismissed by Hon'ble the Supreme Court on the grounds of delay as well as on merits, vide order dated 25.9.2006 (P-4). In this manner, pay scales of Rs. 1800-3200 and 6300-10700 w.e.f. 1.1.1986 and 1.1.1996 respectively have been allowed to such persons who approached the Court.

Another writ petition being C.W.P. No. 14112 of 2002 (supra) was also filed by similar situated persons, which was allowed by a Division Bench in terms of earlier Division Bench judgment in the case of G.K. Nagpal (supra), vide order dated 22.12.2005 (P-5). It is alleged that the Board is restricting the grant of aforementioned

scales only to those persons who had approached the Court and not in and every case despite the fact that the petitioners have made number of representations. It has further been submitted that once the issue regarding parity of pay scale has been settled by various Courts, it was incumbent upon the Board to apply the decision in the cases of all such employees which are covered by the judgments. In that regard reliance has been placed on the judgments rendered by this Court in the cases of **State of Punjab v. Mohan Singh Dhindsa**, 1997 (3) PLR 827 (D.B.); **Rattan Singh v. State of Haryana**, 1995 (1) PLR 274 (D.B.); and **Rajbir Singh v. The Secretary, Haryana State Electricity Board, Panchkula**, 1999 (3) RSJ 192 (D.B.)

In the written statement filed on behalf of the Board, a preliminary objection has been raised that the claim of the petitioners is barred by limitation. It has been asserted that the petitioners were appointed in the years 1999-2000 and once they have accepted the benefits/pay without any protest they are estopped from filing the instant petition at this belated stage. In that regard reliance has been placed on the judgments of this Court in the cases of **Narotam Sharma v. State of Haryana**, 2003 (4) SCT 239 (D.B.) and **S.S. Saini v. State of Haryana**, 2002(4) SCT 493. It has still further been asserted that the matter of equation of posts and determination of pay scales etc. is primarily function of the executive and not of the judiciary. In that regard reliance has been placed on the judgments of Hon'ble the Supreme Court in the cases of **Parveen Kumar v. State**

of Haryana, 2007(2) RSJ 126; Indian Railway Staff Association v. Union of India, (1998) 2 SCC 651; Deb Narayan Shyam v. State of West Bengal, (2005) 2 SCC 286 and State Bank of India v. K. Subbiah, (2003) 11 SCC 646. Relying upon another judgment in the case of **HSEB v. Rajbir, 2003 (1) SCT 780**, it has been asserted that mere dismissal of a SLP does not make the decision final. The writ petition is also sought to be dismissed on the ground that the petitioners have not challenged the advertisement vide which they are appointed nor grant of pay scales. In that regard reliance has been placed on the judgment of Hon'ble the Supreme Court in the case of **State of Haryana v. Jagroop Singh, 2003(2) SCT 226 (S.C.)**.

Rebutting the averments of the written statement, the petitioners have filed replication submitting that in the matter of parity of pay scale once the matter has been settled by this Court and Hon'ble the Supreme Court then the question of limitation would not arise because anomaly in the pay scale is a recurring cause of action for an employee which occurs every month. In that regard reliance has been placed on the judgment of Hon'ble the Supreme Court in the case of **M.R. Gupta v. Union of India, 1996 (1) SCT 8 (SC)**. It has been averred that the matter in issue has been finally settled only in the year 2006 when the relief was granted after series of litigation to similarly situated persons. It has further been mentioned that where the action of the department in fixation of pay scale is challenged, the same would always be open to judicial review and Courts can

exercise jurisdiction in such like matters. In respect of the judgments relied upon in the written statement, it has been mentioned that the same are not applicable in the facts and circumstances of the present case and the same are distinguishable.

After hearing learned counsel for the parties and perusing the record with their able assistance, we are left with no doubt that the matter is no longer *res integra* and the same is squarely covered by Division Bench judgment of this Court in the case of G.K. Nagpal (supra) [Annexure P-1], which has also been followed in the case of Pawan Kumar Mittal (supra) [Annexure P-5].

It is appropriate to refer to a Division Bench judgment of this Court in the case of **Smt. Om Pati v. State of Haryana and others** (C.W.P. No. 10209 of 2004, decided on 26.9.2006), of which one of us (M.M. Kumar, J.) was also a member, wherein it has been held that it is the duty of the concerned authorities/State to implement judicial pronouncements not only in the cases of those who approached the courts but such judgments have to be followed, applied and implemented in every case where similar fact - situation is involved so as to avoid unnecessary rush in the Courts and discourage apathy on the part of bureaucracy. The relevant observations made in the case of Smt. Om Pati (supra) are extracted as under:-

“ It has become fashion of the day for the respondent State to force the litigant to approach the Court in every case without caring to examine the

controversy which has been settled by the judicial pronouncements. It poses a question for the respondents to answer as to whether the principles of law in similar facts are to be every time reiterated by the Court or such principles should serve the respondent State as guidelines for deciding the issues raised before it.

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.....It is amazing that brushing aside the view already expressed by the Division Bench, the respondent State has adopted an absolutely undesirable and impertinent stand in the written statement. This approach adopted by the respondent State is causing unnecessary rush in the courts and encourage apathy on the part of bureaucracy. Such an apathy has to be completely discouraged and the law as laid down by this Court upheld by Hon'ble the Supreme Court has to be followed, applied and implemented. The respondent State cannot expect this Court to express opinion in every case where similar facts situation is involved as is the position in the present case. If no one in the bureaucracy is prepared to take responsibility of stating honestly and fairly that the facts of the case are covered by the judgment of this Court or the Supreme Court then it is a sad day because it unnecessarily clog the working of the Courts by

disposing those cases which are required to be taken care of by the respondent State and its executives.

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Before parting we hope and trust that the respondent State would take some corrective steps in view of our observation made in this judgment because we are sure that if suggested approach is followed then it would advance the Administration of Justice and would also infuse the sense of responsibility in those who are entrusted with the duty to discharge such like functions in accordance with law. If need be, necessary instructions in that regard may be issued by the worthy Chief Secretary.”

Without commenting any further, we allow the instant petition in terms of Division Bench judgment of this Court in the case of G.K. Nagpal (supra). The petitioners shall be entitled to be placed in the scale of Rs. 6300-10700 w.e.f. from the date of their joining as Laboratory Assistant in the Board. The petitioners shall also been entitled to arrears of difference of pay, which shall be calculated and paid to them within two months from the date of receipt of copy of this order.

The writ petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

December 11, 2007
Pkapoor

(RAKESH KUMAR JAIN)
JUDGE